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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SOMPO JAPAN INSURANCE COMPANY
OF AMERICA,

Plaintiff,

-against-

HANKYU EXPRESS INTERNATIONAL CO.,
LTD. and KOREAN AIR LINES CO., LTD.,

Defendants.
-----X

HANKYU EXPRESS INTERNATIONAL CO.,
LTD.,

Third-Party Plaintiff,

-against-

DELTA AIR LINES, INC.,

Third-Party Defendant.
-----X

SENT TO CHAMBERS
FOR REVIEW

SEP 10 2007

U.S.D.C.S.D.N.Y.
CASHIERS
07 CV 6476 (JGK)

THIRD-PARTY COMPLAINT

Defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., by its attorneys, MENDES & MOUNT, LLP, as and for its third-party complaint, alleges the following, upon information and belief and pursuant to Rule 14 of the Federal Rules of Civil Procedure:

1. That at all times complained of herein, defendant/third party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., was and still is a foreign corporation, duly organized and existing under and by virtue of the laws of Japan, with an office located at 1561 Beachey Place, Carson, California.

2. That at all times complained of herein, third-party defendant, DELTA AIR LINES, INC., was and still is a foreign corporation, duly organized and existing under and by virtue of the laws of the State of Georgia, with an office located at 1030 Delta Boulevard, Atlanta, Georgia.

3. That on or about March 10, 2006, plaintiff, SOMPO JAPAN INSURANCE COMPANY OF AMERICA, filed suit against defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., alleging total damages estimated to be \$46,000.00, for damage to a three shipments of automotive components, which allegations have been denied.

4. That a true, accurate and complete copy of plaintiff's complaint is annexed hereto and made a part hereof, as Exhibit "A".

5. That on September 10, 2007, issue was joined on behalf of defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., by the service of an answer.

6. That a true, accurate and complete copy of the answer of defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., is annexed hereto and made a part hereof, as Exhibit "B".

AS AND FOR A FIRST CAUSE OF ACTION

7. That defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., repeats, reiterates and realleges each and every allegation contained in the paragraphs designated "1" through "6", inclusive, of the third-party complaint with the same force and effect as if here set forth in full at length.

8. That if, and in the event, plaintiff, SOMPO JAPAN INSURANCE COMPANY OF AMERICA, sustained damages as alleged in the complaint, said damages were caused, in

whole or in part, by the intentional conduct, carelessness, negligence, acts, omissions, breach of contract and/or breach of bailment of third-party defendant, DELTA AIR LINES, INC., and not by any carelessness, negligence, acts or omissions by defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD.

9. That by reason of the foregoing, if, and in the event, plaintiff, SOMPO JAPAN INSURANCE COMPANY OF AMERICA, recover any sum or judgment against defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., then defendant/third-party plaintiff is entitled to indemnification from third-party defendant, DELTA AIR LINES, INC., for the full amount of any such sum or judgment.

AS AND FOR A SECOND CAUSE OF ACTION

10. That defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., repeats, reiterates and realleges each and every allegation contained in the paragraphs designated "1" through "9", inclusive, of the third-party complaint with the same force and effect as if here set forth in full at length.

11. That if plaintiff, SOMPO JAPAN INSURANCE COMPANY OF AMERICA, were caused to sustain damages as alleged in the complaint, due to any negligence or other culpable conduct other than plaintiff's subrogor's own, and if any judgment is recovered herein by plaintiff, SOMPO JAPAN INSURANCE COMPANY OF AMERICA, against defendant/third-party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., then defendant/third-party plaintiff will be damaged thereby; and, therefore, defendant/third-party plaintiff demands judgment for contribution from third-party defendant, DELTA AIR LINES, INC.; that the

respective degrees of negligence or other culpable conduct of defendant/third-party plaintiff and third-party defendant be ascertained, determined and adjudicated; and that defendant/third-party plaintiff have judgment over third-party defendant for all or part of any verdict or judgment obtained by plaintiff against defendant/third-party plaintiff.


WHEREFORE, defendant/third party plaintiff, HANKYU EXPRESS INTERNATIONAL CO., LTD., demands judgment over for contribution and/or indemnification against third-party defendants, DELTA AIR LINES, INC., for all or part of any verdict or judgment obtained by plaintiff, SOMPO JAPAN INSURANCE COMPANY OF AMERICA, together with costs, disbursements, interest and attorneys' fees.

Dated: New York, New York
September 10, 2007

Yours, etc.,

MENDES & MOUNT, LLP
Attorneys for Defendant/Third-Party Plaintiff
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By:


Kevin J. Philbin
(KJP-3606)